

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

Adv. Pro. No. 08-1789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., ASCOT FUND LTD.,
GABRIEL CAPITAL CORPORATION

Defendants.

Adv. Pro. No. 09-01182 (SMB)

STIPULATION OF DISMISSAL WITH PREJUDICE AND CONSENT ORDER

The plaintiff, Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC and the estate of Bernard L. Madoff, by and through his undersigned counsel, and defendants Gabriel Capital, L.P. (“Gabriel”) and Ariel Fund Ltd. (“Ariel”), by and through their undersigned counsel, hereby agree and stipulate as follows:

1. On August 30, 2013, the Trustee filed the Third Amended Complaint against, *inter alia*, Gabriel and Ariel.
2. On May 19, 2015, the Trustee entered into a settlement agreement with defendants Gabriel and Ariel pursuant to Federal Rule of Bankruptcy Procedure 9019, which also

resolved the Trustee's claims against Gabriel and Ariel. The settlement agreement was approved by this Court on June 23, 2015, ECF No. 270.

3. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(A)(ii) and Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Trustee, Gabriel, and Ariel hereby stipulate to a dismissal with prejudice of the Trustee's claims against Gabriel and Ariel in the above-captioned adversary proceeding.

Dated: September 8, 2015

New York, New York

/s/ Lan Hoang

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*Attorneys for Irving H. Picard, Trustee for
the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff
Investment Securities LLC and the
Estate of Bernard L. Madoff*

SO ORDERED:
September 8th, 2015

/s/ Jordan W. Siev

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*Attorneys for Bart M. Schwartz as Receiver
of Ariel Fund Limited and Gabriel Capital,
L.P.*

/s/ STUART M. BERNSTEIN
Honorable Stuart M. Bernstein
United States Bankruptcy Judge